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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,434	01/11/2002	Peter A. Warren	FM-169J	9313
7590 Iandiorio & Teska 260 Bear Hill Road Waltham, MA 02451-1018			EXAMINER A, PHI DIEU TRAN	
			ART UNIT 3637	PAPER NUMBER
			MAIL DATE 07/02/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/044,434

Applicant(s)

PETER A. WARREN

Examiner

Phi D. A

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 June 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-71 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-71 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/18/07 has been entered.

Since applicant has not made any changes to the claims, and the rejections are proper, the rejections are repeated below.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 22-43, 46-47, 50-71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richards et al (4683610) in view of Egres Jr. (6016848).

Richards et al (figures 6-7) shows a foldable member comprising at least a first tube (4), at least one predetermined hinge area along the length of the first tube, a plurality of opposing elongated slots (23, figure 7) in the tube through the tube material forming separated longitudinal strips of tube material between the slots which fold when subjected to localized bucking forces, a plurality of opposing slots (figures 6-7), at least four slots (23), one set of two slots opposing

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another set of two slots (figure 7), each slot of each set of elongated slots separated longitudinally along the length of the tube from each adjacent slot by a bridge element of tube material (figure 6, the slots 23 separated by a bridge element), the opposing sets of slots being diametrically opposed from each other on the tube (figure 7), each slot in each set of slots is diametrically opposed from a slot in the opposing set of slots, two sets of slots and two slots in each set of slots, a stress relieving element (the edge of the slot the interior surface) attached to each bridge element on the inside of the tube, a plurality of hinge areas spaced from each other along the length of the tube, each hinge area including opposing sets of elongated slots, an electrical conductor(2) disposed in the tube, at least one transducer device(16, 18) located proximate the hinge area for controlling the folding of the longitudinal strips of tube material, slot reinforcement members (the reinforcing members being the bridges), four slots in each set of slots and each slot of a pair of the four slots opposing another slot (figure 6-7), each slots having a reduced diameter portion, a collapsible structure comprising a plurality of joined members (figure 1).

Richards et al do not show the tube being made of layers of material.

Egres Jr. shows a tube being made of layers of material, the tube may have any desired density, rigidity or thickness (col 13 lines 21-25).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Richards et al's structure to show the tube being made of layers of material because it would provide for a dielectric tube, which is strong and durable as taught by Egres Jr.

Per claims 27, 37-39, 57, 64, 70-71, Richards et al as modified shows the layers of material are laminated to each other except at the predetermined hinge area, the tube being made

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of a plastic material, the tube being made of a composite material, the composite material including a triaxial braid of fibers in a resin matrix (col 6 line 26, Egres Jr.), the plurality of longitudinal strips being multi-ply.

Per claims 23-26, 53-56, 60-63, Richards et al as modified shows all the claimed limitations including the first tube including a sheet of plastic material wrapped around itself several times forming the layers of tube material.

Per claims 24-26, 54-56, 60-64, Richards et al as modified shows an adhesive securing the layers of plastic material to each other at selected locations along the length of the tube and the adhesive being a tape (inherently so the layers of plastic material each if an adhesive tape), the sheet of plastic material comes from a roll of plastic stock material with the fibers impregnated with resin and having a round memory (when cured).

3. Claims 44-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richards et al (4683610) in view of Egres Jr (6016848).

Richards et al as modified shows all the claimed limitations except for the slots being triangle shaped, or diamond shaped.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Richards et al's modified structure to show the slots being triangle shaped, or diamond shaped because triangular, diamond, rectangular, or oval shaped slots are well known shapes for slots.

4. Claims 48-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Richards et al (4683610) in view of Egres Jr (6016848) as applied to claim 40 and further in view of Sorenson (5598598).

Richards et al as modified shows all the claimed limitations except for a second tube disposed inside the first tube, the second tube including opposing sets of elongated slots at the hinge area thereof.

Sorenson shows a second tube(60) disposed inside the first tube(32) to strengthen the tubular structure.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Richards et al's modified structure to show a second tube disposed inside the first tube because it would strengthen the tubular structure as taught by Sorenson.

Per claim 49, Richards et al as modified shows the second including opposing sets of elongated slots at the hinge area thereof.

Response to Arguments

5. Applicant's arguments filed 6/18/07 have been fully considered but they are not persuasive.

With respect to applicant's argument that Richards's structure is never meant to fold as shown by applicant's figures, examiner respectfully states that the structure is able to fold when subjected to localized force as claimed. The argument is thus moot.

The following arguments from previous office action is also pertinent to applicant's arguments, and is hereby restated below.

Applicant states that there is no motivation to combine the references of Richards and Egres Jr. as the handle extension for a tool of Richards is not subjected to repeated flexing due to vibration, bending or the like, and that the extension of the tool handle beyond the clamping area prevents the clamping area from experiencing flexing, examiner respectfully disagrees and

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would like to set forth the following: first of all, Richards et al discloses that the slots formed on the tube forming a plurality of circumferentially spaced flexible strips of material (col 2 lines 20-23); secondly, the handle extension is to attach to tools like paint operator, concrete spreader which when used, would involve flexing and bending motion; a structure subjected to flexing and bending motion, is normally subjected to bending stresses; thirdly, Richards et al's strips is subjected to clamping/bending per the clamps to strongly attach to tools, and thus the area next to the clamped area is also subjected to bending stress; fourthly, Richards et al discloses a tool is to be inserted a little pass the middle of clamping location, which also means the strips beyond the area when the tool is inserted, is subjected to bending stress per the normal use of paint rollers and concrete spreader. It is thus clear Richards et al would desire the tube be of a material that has excellent property that can withstand stress caused by bending. Egres Jr. teach a material that has excellent strength, wear resistance, and dimensional stability when subjected to repeated bending and flexing. Modifying Richards et al with Egres Jr. would result in a tubular structure that has excellent strength, wear resistance, and dimensional stability when subjected to repeated bending and flexing. The modification is thus desired and motivated. The argument is thus moot.

1. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5

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USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, the motivation to combine is found in the references themselves as explained above.

Conclusion

2. This is a RCE of applicant's earlier Application No. 10/044434. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 571-272-6864. The examiner can normally be reached on Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Phi Dieu Tran A *PA*


Jose V. Chen
Primary Examiner

6/25/07